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MAY 04 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2100**

In re Application of: DURST et al.)
Application No. 09/726,086) **DECISION ON PETITION TO**
Attorney Docket No. 150-058RP) **WITHDRAW HOLDING OF**
Filed: November 29, 2000) **ABANDONMENT UNDER 37 CFR**
For: SYSTEM AND METHOD FOR) **§1.181**
LINKING ONLINE RESOURCES TO)
PRINT MEDIA AND AUTHORING TOOL
FOR SAME

This is a decision on the petition, filed November 22, 2004, requesting the Withdrawal of the Holding of Abandonment of the above-identified application under 37 CFR 1.181; however, the petition has been treated as a petition under 37 CFR §1.8, which is more appropriate for this type of petition.

The Petition is **DISMISSED**.

The application was abandoned for failure to file a timely response to the Non-Final Office Action mailed January 30, 2004. Notice of Abandonment was mailed October 5, 2004.

In support of the petition, Petitioner provides a copy of a third party receipt of transmission of a facsimile showing that a 9-page fax (identified in the heading as an amendment) was transmitted to fax id #7033053719.

- 1) a 2-page Transmittal Form dated July 02, 2004, showing extension of time request and fee paid
- 2) a 4-page Petition to Withdraw the Holding of Abandonment
- 3) a 2-page Transmittal Form dated August 02, 2004, showing extension of time request and fee paid
- 4) a 7-page Copy of the Amendment with Remarks, stamped November 22, 2004
- 5) a 1-page transmittal letter dated November 18, 2004 and stamped November 22, 2004
- 6) a 1-page copy of a third party receipt of transmission

37 C.F.R. § 1.8(b) states:

(b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

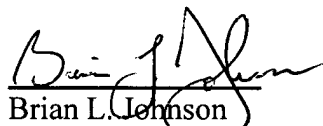
- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The Petitioner has not complied with item b2 or b3 above. Item b2 requires that an additional copy of the previously mailed or transmitted correspondence **and certificate** is supplied. The petitioner provides a reference to a transmittal form to indicate that a two-month extension of time was received by the office on July 02, 2004 and that an extra one-month extension was received on August 02, 2004. However, the petitioner does not provide a certificate or transmittal to indicate that the **amendment** was filed in response to the office action dated January 30, 2004. Furthermore, item b3 indicates that a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission, or a copy of the **sending unit's report confirming transmission** should be provided for facsimile transmissions. The Petitioner merely provided a copy of an email from a third party rather than an "Auto-Reply" for the USPTO, as required.

Petitioner has not established that a response to the office action dated January 30, 2004 has been timely filed. Therefore, although the extension of time petitions/transmittals filed on July 02, 2004 and August 02, 2004, respectively, may be considered timely, neither response references an amendment and therefore, the copy of the amendment filed with the petition is untimely.

Accordingly, the petition is **DISMISSED**.

If Petitioner desires further review of this decision, petitioner should file a Request for Reconsideration within two (2) months of the mailing date of this decision. Telephone inquiries should be directed to the undersigned.


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JC